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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/341,379 | 07/09/1999 | VALERIO AISA | MERL0060US | 5053 35 |
| 24267 | 7590 | 10/01/2003 | | EXAMINER |
| CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210 | | | BECKER, DREW E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1761 | |

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|---------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/341,379 | AISA, VALERIO |
| | Examiner | Art Unit |
| | Drew E Becker | 1761 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 21 July 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 34, 36-40 and 42 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 34, 36-40 and 42 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

 If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

 a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. The request filed on July 21, 2003 for an RCE based on parent Application No. 09/341,379 is acceptable and an RCE has been established. An action on the RCE follows.

Specification

2. The disclosure is objected to because of the following informalities: the specification lacks section headings such as "Background of the Invention" and "Brief Description of the Drawings".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 34, 36, 38-39, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Edamula [Pat. No. 4,837,414].

Edamula teaches a control system for an oven comprising a memory with two sections for two sets of functions (Figure 2, #116 & 123), a control panel with buttons that produces signals to select and provide parameter values (column 2, line 38), a remote

controller that produces signals that select and provide pre-programmed functions and parameters separate from the functions and parameters of the control panel (Figure 2, #101; column 2, lines 41-45), appliance control means that respond to the remote controller by using programs and information stored in the memory (Figure 2, #121-122 & 124), transmitting and receiving means between the remote controller and the appliance control means (Figure 2, #113, 115, 121, 128), and display means for status information (Figure 2, #117). Phrases such as "wherein the status information includes..." are merely preferred methods of using the claimed apparatus. Edamula also teaches a method of operating a cooking device by activating buttons on a control panel to provide a first set of parameter values (column 2, line 38), providing data signals to a controller to select pre-programmed control functions separate from the functions of the buttons (column 2, lines 41-45), and operating the device by use of these signals and controls (column 4, lines 26-46).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Edamula as applied to claim 34 above, in view of Schwarzbacker et al [Pat. No. 5,710,409].

Edamula teaches the above mentioned components. Edamula teaches a clock in the appliance control means (column 5, line 28). Edamula does not teach a clock in the remote controller which updates the appliance clock. Schwarzbacker et al teach a cooking device comprising a remote control (Figure 1, #51) which includes a clock which updates the appliance (column 4, line 35). It would have been obvious to one of ordinary skill in the art to incorporate the second clock of Schwarzbacker et al into the invention of Edamula since both are directed to cooking devices, since Edamula already included a clock and remote controller which displayed the cooking time (Figures 5A-C), and since Schwarzbacker et al teach that the second clock can be used to adjust and modify the cooking time (column 4, line 38).

Response to Arguments

7. Applicant's arguments filed July 21, 2003 have been fully considered but they are not persuasive.

Applicant argues that Edamula does not teach a memory with two sections. However, Edamula clearly teaches a memory with two sections (Figure 2, #116 & 123).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

Art Unit: 1761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.



Drew E Becker
Examiner
Art Unit 1761